IN THE UNITES STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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| DAVID S. FORBES, et al. | : | CIVIL ACTION |
| | : | No. 95-7021 |
| v. | : | |
| | : | |
| R. ALAN EAGLESON, et al. | : | |

O'Neill, J. November , 1997

M E M O R A N D U M

Plaintiffs, former professional hockey players, bring this civil Racketeering Influence and Corrupt Organizations (RICO) action on behalf of themselves and all former and present members of the National Hockey League Players Association[1] against defendants, the National Hockey League (NHL), NHL member clubs, and owner representatives (NHL defendants); R. Alan Eagleson, former executive director of the National Hockey League Players Association; and several businesses associated with Eagleson: Jialson Holdings, Ltd., Sports Management, Ltd., Rae-Con Consultants, Ltd., and Eagleson, Ungerman, a law firm.

Eagleson, Jialson Holdings, Sports Management, Rae-Con Consultants, and Eagleson, Ungerman, the so-called Canadian defendants, have moved to pursuant to Federal Rule of Civil Procedure 12(b)(2) to dismiss the complaint against them for lack of personal jurisdiction.[2] For

[1] Plaintiffs' motion for class certification has been denied without prejudice to renewal after resolution of jurisdictional issues. (Order, July 23, 1996.)

[2] In a previous Order, I held that plaintiffs' service of defendants in Canada was not authorized by RICO's nationwide service provision, 18 U.S.C. § 1965, and that the service provision therefore could

the reasons set forth below, defendants' motion is denied.

## I. BACKGROUND

Plaintiffs bring this action in two counts, alleging distinct conspiracies between Eagleson and the NHL defendants, and between Eagleson and the other Canadian defendants. The following are the facts as set forth in plaintiffs' amended complaint. See Carteret Savings Bank v. Shushan, 954 F.2d 141, 142, 142 n. 1 (3d Cir. 1992).

Eagleson was executive director of the National Hockey League Players Association (NHLPA), the exclusive bargaining unit of NHL players, from 1967 to 1991. Supervising one other union officer and one or two secretaries, Eagleson directed the union's daily operations and conducted the players' collective bargaining negotiations with the NHL. He also engaged in business for himself as an agent and lawyer representing players in their individual contract negotiations with the club owners.

On or about 1976, Eagleson entered into a conspiracy with the NHL defendants in which he was given unsupervised control of a joint NHL-NHLPA venture which staged international hockey tournaments. Half of the venture's profits were to go to the NHL and half to the NHLPA players' pension fund. It was on this expectation that NHL players were induced to participate in the tournaments, for which they earned little additional pay. Eagleson was also given control over NHL funds for the purchase of players' disability insurance.

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not support personal jurisdiction over defendants. (Order, July 22, 1996.) I further found, however, that the Court could exercise personal jurisdiction over defendants if the defendants were subject to the jurisdiction of Pennsylvania, see Fed. R. Civ. P. 4(k)(1), and granted plaintiffs' request to conduct discovery on defendants' contacts with Pennsylvania. This discovery has been completed and the parties have re-briefed the issue.

By means of these positions and because the NHL defendants' deliberately failed to have him account for the expenses and revenues of these ventures, Eagleson was able to direct revenues that should have inured to both the NHLPA and the NHL to himself and his associates. In exchange for these inducements, Eagleson betrayed the interests of the players in collective bargaining negotiations and perpetuated an employer-dominated union. As a result, the players' compensation was substantially suppressed from what it would have been had the players been represented by an un-compromised and aggressive union negotiator.

The second alleged scheme involves distinct conspiracies between Eagleson and defendants Jialson Holdings, Sports Management, Rae-Con Consultants, Ltd., and Eagleson, Ungerman. Each of these businesses was controlled and/or owned by Eagleson, and used to wrongfully convert NHLPA funds and international tournament revenues that should have inured to the NHLPA. Jialson Holdings was a real estate holding company which owned the building in which Eagleson located his law firm and player agency businesses and, after 1988, the NHLPA offices. Jialson was used to funnel unauthorized loans of NHLPA money to ventures in which Eagleson or his family had interests, and also received excessive rent payments from the NHLPA for the union's office space. Eagleson, Ungerman received excessive payments from the NHLPA for the services of firm employees and for promotional and insurance-related services. The firm also earned fees from the unauthorized loans of NHLPA money, some of which were made to firm clients. Finally, Eagleson funneled NHLPA money into Sports Management and Rae-Con, his player agency businesses, by means of excessive payments for the services of their employees and other expenses related to the international tournament games.

## II. THE LAW OF PERSONAL JURISDICTION

This Court may exercise personal jurisdiction over defendants to the extent Pennsylvania courts could do so under state law. Fed. R. Civ. P. 4(k)(1). Pennsylvania's long-arm statute authorizes exercise of personal jurisdiction to the fullest extent consistent with due process under the Fourteenth Amendment. 42 Pa. C.S.A. § 5322(b); Grand Entertainment Group, Ltd. v. Star Media Sales, Inc., 988 F.2d 476, 481 (3d Cir. 1993). The question before the Court, therefore, is whether exercising jurisdiction over these defendants would comport with due process. See, e.g., Vetrotex Certainteed v. Consolidated Fiber Glass, 75 F.3d 147, 150 (3d Cir. 1996).

Defendants have a due process liberty interest in "not being subject to the binding judgements of a forum with which [defendants] ha[ve] established no meaningful 'contacts, ties, or relations.'"[3] Burger King Corp. v. Rudzewicz, 471 U.S. 462, 471-72 (1985), quoting International Shoe Co. v. Washington, 326 U.S. 310, 319 (1945). A state's long-arm jurisdiction is therefore limited to those non-resident defendants who purposefully establish such contacts with the state that they "should reasonably anticipate being haled into court there." World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 297 (1980); Burger King Corp., 471 U.S. at 474.

[3] As this language suggests, physical presence in the state is not essential. Courts have long recognized that "it is an inescapable fact of modern commercial life that a substantial amount of business is transacted solely by mail and wire communications across state lines, thus obviating the need for physical presence within a State in which business is conducted." Burger King, 471 U.S. at 476 (affirming Florida court's assertion of personal jurisdiction over Michigan businessman who had never been to Florida concerning the business dealings in dispute); see also Mellon Bank (East) PSFS v. Farino, 960 F.2d 1217, 1225 (3d Cir. 1992); Leonard A. Feinberg, Inc. v. Central Asia Capital Corp., 936 F. Supp. 250, 257 (E.D. Pa. 1996).

When defendants purposefully engage in business or other activity within the forum state, they are presumed to have the "fair warning" required by due process that they may be subject to suit in that state:

> Jurisdiction is proper . . . where the contacts proximately result from actions by the defendant himself that create a substantial connection with the forum state. Thus where the defendant deliberately has engaged in significant activities within a State, or has created continuing obligations between himself and residents of the forum, he manifestly has availed himself of the privilege of doing business there, and because his activities are shielded by the benefits and protections of the forum's laws it is presumptively not unreasonable to require him to submit to the burdens of litigation in that forum as well.

Grand Entertainment Group, Ltd., 988 F.2d at 482 (quoting Burger King, 471 U.S. at 475-76) (inner quotations omitted).

The parties have argued within the traditional "general" versus "specific" jurisdiction framework common to the case law and mirrored by the Pennsylvania jurisdiction statutes. General jurisdiction is exercised over persons with substantial, continuous contact with the state, regardless of whether the claim relates to the defendant's in-state activities. See 42 Pa. S.C. § 5301. Specific jurisdiction is exercised when a defendant's contacts with the state, while not so substantial as to give rise to general jurisdiction, are related to the claim itself. See 42 Pa. S.C. § 5322(a). Contacts giving rise to specific jurisdiction include transacting business related to the claim in the state, engaging in tortious activity in the state, and engaging in tortious activity outside of the state causing harm in the state (the so-called "effects" theory of jurisdiction). Id. Because Pennsylvania provides for personal jurisdiction to the limits of due process, however, the ultimate question is not whether defendants' contacts may be pigeonholed into either the general or specific jurisdiction basket, see Shah v. Nu-Kote Int'l, Inc., 898 F. Supp. 496, 500

(D.C. Mich. 1995) (noting that the "division between general and [specific] personal jurisdiction should not be rigidly applied), but whether, on balance, the relationships between the defendants, the activities giving rise to this action, and Pennsylvania are such as to make calling defendants into court here consistent with their due process rights.[4]

At this stage of the proceedings, plaintiffs must make only a prima facie showing that defendants have sufficient contacts with Pennsylvania to allow this Court to exercise personal jurisdiction over them. TJS Brokerage & Co., Inc. v. Mahoney, 940 F. Supp. 784, 787 (E.D. Pa. 1996); Leonard A. Feinberg, Inc. v. Central Asia Capital Corp., 936 F. Supp. 250, 253-54 (E.D. Pa. 1996).[5] To determine whether plaintiffs have made this showing, I take as true all allegations uncontroverted by defendant's evidence and, where the parties present conflicting evidence, resolve disputes of fact in favor of exercising jurisdiction . Carteret Savings Bank v. Shushan,

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[4] The general versus specific jurisdiction framework originates from International Shoe, in which the Court set forth the factual circumstances later identified with specific and general jurisdiction, not as conceptually distinct categories into which a particular case must fit to make a court's exercise of jurisdiction constitutional, but rather as instances of a spectrum of possible relationships among a defendant, a forum state, and a cause of action. 326 U.S. at 317-18. "The more directly connected a particular plaintiff's cause of action is to the defendant's contacts with the forum state, the fewer contacts will be required. Conversely, the more remotely the cause of action is connected to forum contacts, the stronger those contacts will have to be." Shah, 989 F. Supp. at 500; cf. North Penn Gas C. v. Corning Natural Gas Corp., 897 F.2d 687, 690-91 (3d Cir. 1989) (taking into account business relationship of over 30 years between plaintiff and non-resident defendant in deciding that specific jurisdiction could be exercised over defendant). In each case, the inquiry should concern the defendant's due process right against unforseen, arbitrary assertion of jurisdiction by a forum that has little interest in the litigation and imposes unreasonable burdens on the defendant's ability to mount a defense.

Taking this broader view is especially important in a case, as here, involving allegedly multi-state wrongdoing and harms. As others have noted, traditional general and specific personal jurisdiction analysis has not yet been fully adapted to the realities of modern interstate and international commerce. See, e.g., In Re DES Cases, 789 F. Supp. 552, 585 (E.D.N.Y. 1992) (critiquing traditional personal jurisdiction jurisprudence in the context of mass tort litigation).

[5] Plaintiffs must eventually prove at trial or in an evidentiary hearing that personal jurisdiction will lie against these defendants by a preponderance of the evidence. Leonard A. Feinberg, Inc., 936 F. Supp. at 253-54.

954 F.2d 141, 142 n.1 (3d Cir. 1992); Taylor v. Phelan, 912 F.2d 429, 431 (10th Cir. 1990); TJS Brokerage & Co., Inc., 940 F. Supp. at 787.[6]

## III. APPLICATION OF THE LAW TO THE FACTS

Viewing the allegations and the record in plaintiffs' favor, I conclude that plaintiffs have made a prima facie showing that defendants Eagleson, Sports Management, Rae-Con, and Eagleson, Ungerman established contacts with Pennsylvania sufficient to subject them to this Court's jurisdiction. In addition, the allegations that defendants deliberately aimed tortious activity at and caused harm in Pennsylvania are adequate to allow this Court to exercise jurisdiction over Jialson Holdings and provide alternative grounds upon which jurisdiction may be exercised over the other Canadian defendants.

### A.

Sports Management, Rae-Con, and Eagleson, Ungerman are Toronto-based firms through

[6] A prima facie showing that defendants purposefully established sufficient contacts with Pennsylvania creates a presumption that exercise of personal jurisdiction over defendants is constitutional. This presumption may be overcome with compelling evidence of other factors that would make requiring defendants to litigate in this forum contrary to "fair play and substantial justice." International Shoe Co. v. Washington, 326 U.S. 310, 316 (1945); Grand Entertainment Group, Ltd., 988 F.2d at 481. In this case, however, defendants argue only that their contacts with Pennsylvania are insufficient to support personal jurisdiction; they do not raise other considerations that would make subjecting them to the Court's jurisdiction unreasonable. Accordingly, I need not address the second step of the due process inquiry. Mellon Bank (East) PSFS v. Farino, 960 F.2d 1217, 1226-27,1227 n. 6 (3d Cir. 1992). Of course, I may consider other factors that mitigate in favor of exercising jurisdiction.

which Eagleson served players as agent, attorney, advisor, and accountant. Each was controlled by Eagleson and owned by him or, in Rae-Con's case, by his wife.[7] Plaintiffs' evidence indicates that there was no clear demarcation between the business of these three companies or Eagleson's work on their behalf.[8] Eagleson appears frequently to have done work for one company while on a trip for or using the stationary, title, or expense account of another or of the NHLPA.

During the period at issue in this suit (1976 to 1992), these companies represented approximately 35 Philadelphia Flyers and Pittsburgh Penguins players, constituting about one-fifth of their total agency business. The companies negotiated one or more contracts for each of these players and in some cases handled all of their financial affairs. In furtherance of this business, Eagleson or the companies' other agents[9] traveled to Philadelphia and Pittsburgh to bargain with team owners, or negotiated by telephone, letters, or fax. Eagleson estimated he had been in Philadelphia 10 to 100 times representing Philadelphia players, though he conducted

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[7] Eagleson was sole shareholder, sole director, and president of Sports Management from 1977 to 199 and sole shareholder of Eagleson, Ungerman from 1988 to 1995. Eagleson was sole shareholder of Rae-Con in 1977 or 1978, but then transferred all of his interest to his wife for tax purposes; his wife was an interior decorator who knew nothing of the sports agency business. Eagleson Dep., at 119-21. Eagleson stated that Rae-Con's chief operating officer, Marvin Goldblatt, a former employee of Eagleson's at Sports Management, "ran Rae-Con on his own," but admitted that he, rather than Goldblatt, conducted most contract negotiations until the mid-1980's, that Goldblatt had no ownership interest in the firm, and that Goldblatt's compensation was negotiated with Eagleson and his wife. Id. at 124, 154-56.

[8] Sports Management, Rae-Con, and the Eagleson, Ungerman law firm shared one suite of offices and one receptionist for most or all of the 1980s. Eagleson frequently conducted NHLPA business from his law offices rather than from union offices, and, in 1988, the NHLPA offices moved into the same space as Eagleson's other offices. In his deposition, Eagleson frequently could not recall with certainty whether it was Rae-Con or Sports Management that had represented particular players. See Eagleson Dep., at 36-39.

[9] Other than Eagleson, Sports Management and Rae-Con apparently had only one other agent each at any one time who negotiated player contracts or solicited clients.

most negotiations by phone.[10] In addition, plaintiffs have documented specific trips and communications to Pennsylvania in which, for example, Eagleson dealt with a Sports Management's client concerning an insurance problem, or sued a former Rae-Con client in Pennsylvania state court to recover unpaid fees.[11] These contacts are imputed to the defendant corporations on whose behalf they were made. See Grand Entertainment Group, Ltd., 988 F.2d at 483.

I conclude that plaintiffs have made a prima facie showing that Sports Management, Rae-Con, and Eagleson-Ungerman drew a substantial portion of their business from Pennsylvania-based player-clients and engaged in numerous, regular contacts with Pennsylvania in their dealings with Flyers and Penguins players and management.[12] By so doing, defendants purposefully availed themselves of the privilege of doing business here, and, as their activities were "shielded by the benefits and protections of the forum's laws[,] it is presumptively not

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[10] Defendants challenge a substantial portion of the 350 phone calls plaintiffs have documented from Eagleson's Toronto offices and home to Pennsylvania between 1985 and 1991. Eagleson avers that he did not have access to one of the numbers listed and also challenges the phone calls on grounds that plaintiffs did not prove that he made the calls. Whatever the number of calls he made, the essential point is that Eagleson represented numerous players in scores of contract negotiations with Flyers and Penguins management that involved extensive contact with Pennsylvania.

[11] Sports Management, Rae-Con, and Eagleson, Ungerman deny in interrogatory answers that any agent or representative made any trips to Pennsylvania on their behalf, though Sports Management and Rae-Con admit that they "may have represented one or more players" who played for the Pennsylvania clubs, and that written communications or telephone calls may have been made in connection with that representation. Sports Management Interrog. Ans. 5-6; Rae- Con Interrog. Ans. 5-6. Eagleson, Ungerman answered that it is "not aware" of any communications to Pennsylvania. Eagleson, Ungerman Interrog. Ans. 5-6. These interrogatory answers are clearly contradicted, however, by plaintiffs' documentary evidence and Eagleson' own deposition testimony.

[12] Defendants assert, correctly, that I must look to the quality rather than the quantity of contacts to determine if they are substantial and continuous, yet then argue that jurisdiction cannot be had over defendants because they were not in "daily contact" with Pennsylvania. While daily contact might be a sufficient basis for exercising general jurisdiction, no authority requires it.

unreasonable to require [them] to submit to the burdens of litigation in [this] forum as well." Burger King, 471 U.S. at 475-76. Accordingly, these defendants are subject to the Court's general jurisdiction under Pennsylvania law, see 42 Pa. C.S.A. § 5301, and the Court may exercise jurisdiction over defendants consistent with due process.

As to Eagleson, plaintiffs argue that he is subject to this Court's general jurisdiction because of his substantial, continuous contacts with Pennsylvania both as players' agent and lawyer, discussed above, and as director of the NHLPA. Plaintiffs also argue that Eagleson is subject to specific personal jurisdiction because he transacted NHLPA and international hockey business in Pennsylvania related to plaintiffs' cause of action. See 42 Pa. C.S.A. § 5322(1).[13]

In support of their allegations, plaintiffs offer evidence that, in addition to his contacts with the state concerning his own businesses, Eagleson made numerous trips to Pennsylvania in his capacity with the NHLPA to attend team meetings with Flyers and Penguins players, international tournament games, NHL All-Star games, NHLPA player meetings, and player-owner council meetings.[14] Eagleson also directed numerous written communications to Penguins and Flyers players as part of his regular correspondence with NHLPA members.

A portion of these contacts with Pennsylvania, plaintiffs assert, were related to Eagleson's alleged RICO violations. In written communications to NHLPA players, including Flyers and Penguins, Eagleson is alleged to have fraudulently misrepresented that international

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[13] Plaintiffs also seek to impute to Eagleson the Pennsylvania contacts of his alleged co-conspirators, the Flyers and the Penguins clubs. I need not address this co-conspirator theory of jurisdiction since I find sufficient other grounds for exercising jurisdiction over Eagleson.

[14] Eagleson admits to making nine NHLPA-related trips to Pennsylvania between 1985 and 1990.

hockey revenues were going to the players' pension fund and thereby induced player participation in the tournaments. In addition, plaintiffs offer affidavits declaring that Eagleson made such misrepresentations while meeting in person with Penguins and Flyers players. Plaintiffs also point to several international tournament games held in Pennsylvania which were allegedly central to both the bribery scheme between Eagleson and the owners and the illegal conversion schemes in which Eagleson appropriated revenues from international tournament games to his and his businesses' benefit.[15]

Defendants argue that Eagleson's contacts with Pennsylvania in his capacity with the NHLPA and, presumably, in his capacities with the other defendants, may not be used to establish a basis for exercising jurisdiction over him personally because of the "corporate shield" doctrine. According to this doctrine, state long-arm jurisdiction may not be exercised over corporate officers in their individual capacity based solely on their contacts with the state in their corporate capacities. If the doctrine were ever viable in Pennsylvania,[16] however, it almost certainly is no longer in light of Calder v. Jones, 465 U.S. 783 (1983). In that case, the Court stated that defendants' "status as employees does not somehow insulate them from jurisdiction" and held that employees who were "primary participants in the alleged wrongdoing intentionally

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[15] Defendants assert that neither Eagleson's communications to the players nor the staging of international tournament games in Pennsylvania may be used to establish that Eagleson had forum contacts related to the cause of action because plaintiffs do not prove that the communications and tournament-related activities were fraudulent. These contentions raise factual questions going to the merits of the case and are not properly determined at this stage. See, e.g., Carteret Savings Bank, 954 F.2d at 148 (declining to evaluate merits of claim, upon which personal jurisdiction was grounded, that tort had been committed in the forum state where facts were in dispute).

[16] Apparently, the doctrine has neither been approved by the Pennsylvania Supreme Court nor applied by a lower state court to decline to exercise jurisdiction over a non-resident. See Maleski v. DP Realty Trust, 653 A.2d 54, 62-63 (Pa. Commw. Ct. 1994).

directed at a California resident" were subject to the jurisdiction of the California courts. 465 U.S. at 790; see also In the Matter of an Application to Enforce Administrative Subpoenas Duces Tecum, 87 F.3d 413, 418 (10th Cir. 1996); cf. Mobil Oil Corp. V. Advanced Envtl. Recycling Technologies, 833 F. Supp. 437, 442 (D. Del. 1993) (concluding that corporate shield doctrine was incompatible with Delaware long-arm statute interpreted as authorizing jurisdiction to the maximum extent permitted by due process).

Moreover, even if still viable the corporate shield defense is unavailable to Eagleson in this case. The purpose of the doctrine is to protect corporate officers and directors from being "haled into court and exposed to personal liability in each state that the corporation does business based solely upon their status as corporate officers." Maleski v. DP Realty Trust, 653 A.2d 54, 63 (Pa. Commw. Ct. 1994). The doctrine does not apply where the individual defendant exercises a great deal of control over the corporation and is alleged to have been extensively involved in wrongdoing through the corporation. Id.; see also TJS Brokerage & Co., Inc., 940 F. Supp. at 788; Beistle Co. v. Party U.S.A., Inc., 914 F. Supp. 92, 95-97 (E.D. Pa. 1996). In this case, plaintiffs offer uncontroverted evidence that until 1990 Eagleson directed the union with only one other officer and one or two secretaries and was "the dominant force in the union." (Simpson Aff., ¶¶ 2, 4.) The crux of the allegations, moreover, is that Eagleson abused his control over the NHLPA and the NHLPA-NHL international hockey ventures to betray NHLPA members for his personal benefit. Accordingly, whether one looks to Calder's analysis or to the limitations of the corporate shield doctrine, Eagleson's contacts with Pennsylvania in his capacity with the NHLPA may be used to establish a basis for exercising personal jurisdiction over him. Cf. CFTC v. American Metal Exchange Corp., 693 F. Supp. 168, 187-88 (D.N.J. 1988)

(exercising personal jurisdiction over individual principal of parent and 100% shareholder of defendant subsidiary, and over business and principal of business associated with defendant subsidiary, where these parties had interests in, influence over, and communications with subsidiary active in New Jersey).

I conclude that plaintiffs have made a prima facie showing that Eagleson purposely established substantial, continuous contacts with Pennsylvania, and that in addition many of these contacts were related to this action. Accordingly, the Court may exercise personal jurisdiction over him consistent with due process.

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B.

In addition to exercising jurisdiction based on defendants' specific business contacts with Pennsylvania, this Court may exercise jurisdiction over defendants who cause "harm or tortious injury" in Pennsylvania by acts or omissions outside the state. 42 Pa. C.S.A. § 5322(a)(4). This "effects" theory of jurisdiction was approved by the Supreme Court in Calder v. Jones, 465 U.S. 783 (1984) and Keeton v. Hustler Magazine, Inc., 465 U.S. 770 (1983). In Calder, the Court affirmed a California court's assertion of personal jurisdiction over Florida reporters who, though having no relevant contact with the state themselves, had "expressly aimed" intentional and allegedly tortious acts at California by writing and publishing an allegedly libelous article about a Californian woman in a national magazine with a large Californian readership. In Keeton, the Court held that a federal district court in New Hampshire could exercise personal jurisdiction over an Ohio defendant who published magazines in New Hampshire (as well as other states)

that allegedly libeled the plaintiff, a resident of New York.[17]

In this case, two NHL teams, the Pittsburgh Penguins and Philadelphia Flyers,[18] and approximately 10% of NHLPA members were based in Pennsylvania, and perhaps dozens of international tournament games were played in this state.[19] NHLPA and international tournament funds were therefore derived in substantial part from Pennsylvania sources, and Pennsylvania-based members of the NHLPA were a substantial portion of those who would be harmed by conversion of these funds or betrayal of the players' interests in collective bargaining. By allegedly pilfering NHLPA funds and tournament revenues and, in Eagleson's case, betraying NHLPA members in collective bargaining, therefore, these defendants did not merely engage in "untargeted negligence" that happened to have consequences in this state; rather, they "expressly aimed" intentional, tortious actions at Pennsylvania, and reasonably could have anticipated being haled into court in Pennsylvania to answer for their actions. Calder, 465 U.S. at 789-90; see also Fairfield Co. v. C.T. Main Construction Inc., 624 F. Supp. 903, 905-06 (E.D. Pa. 1985).[20]

Of course, only part of defendants' alleged wrongdoing was aimed at Pennsylvania and

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[17] Like Pennsylvania's long-arm statute, the New Hampshire law at issue in Keeton authorizes jurisdiction over out-of-state tortfeasors who cause harm in the state even if none of the parties are state residents. See Keeton, 465 U.S. at 777-79; 42 Pa. C.S.A. § 5322(a)(4).

[18] Pennsylvania is one of only two states (the other being New York) having more than a single NHL team.

[19] See Pl.'s Ex. 90 (showing 10 games between NHL and Soviet teams played between 1976 and 1991 in Pennsylvania venues).

[20] Because I find that jurisdiction may be exercised over Jialson under the "effects" theory, I need not address plaintiffs' arguments that specific jurisdiction may be had over Jialson because a revised lease between Jialson and the NHLPA for the union's office space was approved at a NHLPA board meeting in Pittsburgh during the 1990 NHL all-star game weekend, and/or because Eagleson's acts in Pennsylvania may be imputed to Jialson as Eagleson's co-conspirator.

only part of the alleged injury to NHLPA members was felt by Flyers and Penguins; both the harm and the wrong-doing asserted in this action were spread over the territories in which the NHL and the NHLPA operated. But it would be a pernicious and absurd result if the wide-ranging nature of the alleged conspiracy were held to bar redress in a forum where some, though not all, of the harm and wrongdoing occurred, and neither Pennsylvania law nor due process considerations require it. See Keeton v. Hustler Magazine, Inc., 465 U.S. 770 (1983). Defendants allegedly commandeered for their own illegal benefit an organization with a multi-state membership and multi-state business interests, and they may not "escape having to account in [this state] for consequences that arise proximately from such activities; the Due Process Clause may not readily be wielded as a territorial shield to avoid interstate obligations that have been voluntarily assumed." Burger King, 471 U.S. at 473-74. Moreover, Pennsylvania has an interest in redressing defendants' alleged deception and injury of the state's hockey-player citizens, and in providing a forum in which all of the issues and damages involved in this action can be litigated in a "unitary proceeding." Keeton, 465 U.S. at 776-777. I conclude, therefore, that plaintiffs have made a prima facie showing of defendants' contacts with Pennsylvania sufficient to withstand defendants' motion to dismiss.[21]

[21] As previously noted, plaintiffs will eventually have to prove by a preponderance of the evidence that personal jurisdiction will lie against all defendants. Insofar as jurisdiction is based on allegations going to the merits of the case, those issues will be decided by the fact-finder in due course.

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O R D E R

AND NOW this day of November, 1997, upon consideration of Plaintiff's Motion for Leave to File Fourth Amended Complaint, the Canadian Defendants' Motion to Dismiss for Lack of Personal Jurisdiction, and the parties' filings related thereto, it is hereby ORDERED that

(1) plaintiff's motion for leave to file a fourth amended complaint is GRANTED; and

(2) the Canadian defendants' motion to dismiss for lack of personal jurisdiction is DENIED for the reasons set forth in the accompanying Memorandum.

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THOMAS N. O'NEILL, JR., J.